

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

GLEN O. MITCHELL,

Plaintiff,

VS.

**MICHAEL J. ASTRUE, the
Commissioner of Social Security,**

Defendant.

CASE NO. 4:08CV3230

MEMORANDUM AND ORDER

This matter is before the Court on the Plaintiff Glen O. Mitchell's motion for payment of attorney's fees (Filing No. 35.) The Court has reviewed the motion, the brief offered in support of the motion, the supporting index of evidence, and the Defendant's response to the motion. (Filing Nos. 35, 36, 37, and 38.)

On May 21, 2009, this Court granted the Defendant's motion to remand (Filing No. 23) and reversed the decision of the ALJ, remanding the final decision back to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings. (Filing No. 24.) Thus, the Court concluded that Mitchell is entitled to an award of attorney's fees pursuant to the Equal Access of Justice Act, 28 U.S.C. § 2412(d), because Mitchell was the prevailing party in this action. See *Shalala v. Schaefer*, 509 U.S. 292, 300-301 (1993) (holding that "a plaintiff who won a remand order pursuant to sentence four of § 405(g)" is entitled to "prevailing-party status (under § 2412(d)(1)(B))" of the Equal Justice Act).

Mitchell's Motion requests that a payment of \$5,198.57 be made directly Mitchell's attorney. (Filing No. 35.) This sum includes a fee of \$4,073.07 for 23.85 hours of work by Mitchell's attorney, at an average hourly rate of \$170.54; and a fee of \$1,125.50 for 53.1

hours of work by several paralegals and law clerks, at an hourly rate of \$25.00 for each paralegal, and an hourly rate of \$20.00 per hour for each law clerk. (Filing No. 37, Exhs. 1 and 3). The Commissioner does not object to the amount of the fee requested in the Mitchell's motion or the request that the fee be paid directly to Mitchell's counsel.

Accordingly,

IT IS ORDERED:

1. The Plaintiff Glen O. Mitchell's motion for attorney's fees (Filing No. 35), filed pursuant to the Equal Access to Justice Act, is granted; and
2. Payment in the amount of \$5,198.57 shall be made to Plaintiff's attorney Stephen L. Speicher.

DATED this 1st day of July, 2009.

BY THE COURT:

s/Laurie Smith Camp_____
United States District Judge